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Fifty-second session
Agenda items 8 and 10

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Letter dated 17 April 1996 from the Chargé d'affaires, a.i. of the Permanent Mission of Yugoslavia to the United Nations Office at Geneva addressed to the Chairman of the Commission on Human Rights

Upon instruction of my Government, I have the honour to inform you that it has paid due attention to the report of Mr. Manfred Nowak (E/CN.4/1996/36).

The report contains a large number of most substantial data, the accurateness and comprehensiveness of which are of greatest importance, particularly for the families of those whose fate is unknown as yet. In this connection, the report should serve as an indication of their whereabouts or their fate.

Concurrently, the report abounds, however, in inaccurate and inexact data and allegations, which is inadmissible, since the issue involved is most sensitive and vulnerable, and it is the product of the most competent United Nations body in the field of human rights, which has for many years dealt with this issue.

On this occasion, it is not the intention to comment on all the statements or falsehoods related to the FRY, including the very name of the State, referred to as the Federal Republic of Yugoslavia in numerous international documents and by top international officials including the United Nations Secretary-General, with Mr. Nowak still using the appendix (Serbia and Montenegro) in brackets.

Unsubstantiated allegations are the vehicle Mr. Nowak still resorts to when claiming that detention camps are being run in the FRY with Croats and Bosnian Muslims incarcerated in them. If it were not a report of such an august body as the Commission on Human Rights, such allegations might go unheeded. The Federal Republic of Yugoslavia declares with full responsibility that such camps are nonexistent on its territory. This assertion is corroborated by reports of the International Committee of the Red Cross (ICRC), where it is explicitly stated that the running of such camps has not been established (statement by ICRC delegate, Ms. Corinne Adam, dated 6 March 1995). On the other hand, on a number of occasions the Government of the FRY has suggested that the Croatian side visit the locations mentioned and see for themselves that the above allegations are unfounded. It is worth noting that these suggestions have been ignored.

As for the alleged Muslim detainees, it is true that shelter has been given to a certain number of Muslims at Mitrovo Polje (the Uzice area) who had fled into the territory of the FRY to escape the obligation to take part in the war actions of the Bosnian Government. It is well known, however, that these persons are the responsibility of international organizations - the United Nations Commission on Human Rights, the International Organization for Migration, the ICRC and others.

The Government of the Federal Republic of Yugoslavia wishes to underscore another grave problem pertaining to Croatia's official admittance that it still holds imprisoned persons from the FRY, the Republic of Serbian Krajina and the Republic of Srpska. It is incumbent upon Croatia to release these detainees without delay, to meet the Yugoslav side's request on missing persons, and to deliver the mortal remains of the Yugoslav People's Army soldiers killed in the Yugoslav People's Army barracks located in its territory, in the military operations in connection with Croatia's secession. It is worth noting that a number of Croat prisoners-of-war have been registered with the ICRC.

With regard to the lists mentioned in the report, in particular to the requests made by Croatia, not a single one relates to the territory of the FRY. The 916 missing persons originate from the territory of the former Srem-Baranja region, others are from the territory of Croatia - Split, Zadar, Sibenik, Knin, Glina and Sisak; hence, tracing them in the FRY is most absurd. It is sheer cynicism to demand of the Federal Republic of Yugoslavia the large numbers of Krajina Serbs who disappeared in the aftermath of the Croat aggression in August 1995 from the FRY.

A substantial number of paragraphs refer to alleged Yugoslav reluctance to cooperate in solving the issue of missing persons. Facts testify to the opposite. Since the signing of the Dayton Agreement, the Federal Government Commission on Humanitarian Issues and Missing Persons has had six meetings

with its Croatian counterpart, as witnessed by duly compiled reports reflecting concrete results. We wish to underscore in this connection that not a single Croat is being detained in the FRY. The best evidence of this is Croatia's readiness to release Yugoslav nationals in exchange for Serb nationality prisoners-of-war from the Republic of Srpska and the former United Nations Protected Areas on the occasion of negotiations on exchanges of detainees.

Notwithstanding the fact that there is not a single unsettled case of a missing person in the territory of the FRY, in view of the importance of this humanitarian issue which affects many in the territory of the former Yugoslavia, we are willing and ready to cooperate providing that our participation means assistance in settling a humanitarian problem. In doing so, we are guided by humanitarian principles, and bound by the obligations under the Dayton Agreement.

It is in this spirit that we have been considering Mr. Nowak's report, studying the sections which relate directly to the FRY, as well as those concerning the sufferings of the Serbs in Bosnia and Herzegovina, in Croatia after operations Flash and Storm, and in many other locations (in the course of the tragic events in recent years). Upon a more detailed and thorough analysis, the Federal Republic of Yugoslavia will decide on the most efficient way of assistance to and cooperation with international bodies, working groups and individuals involved in the efforts to settle this humanitarian issue of first priority.

In conclusion, Mr. Chairman, I wish to recall that Yugoslavia has always been open and ready for all types of cooperation with all those willing to deal with her on a footing of equality.

Finally, I would ask you kindly to have this letter distributed to all the members of the Commission on Human Rights and to have it published as an official document of the current session, under items 8 and 10.

(signed) Miroslav MILOSEVIC
Counsellor
Chargé d'affaires, a.i.

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ORGANIZATION OF THE WORK OF THE SESSION

FOLLOW-UP TO THE WORLD CONFERENCE ON HUMAN RIGHTS

Letter dated 12 April 1996 from the Permanent Mission of Indonesia to the United Nations Office at Geneva addressed to the Chairman of the Commission on Human Rights

I have the honour to transmit herewith the observations and comments* by the Government of Indonesia on documents E/CN.4/1996/112 and E/CN.4/1996/103, of 14 and 18 March 1996, pertaining to the visit of the High Commissioner for Human Rights to Indonesia, from 3 to 7 December 1995.

I should be most grateful if the aforementioned memorandum could be circulated as a document at the fifty-second session of the Commission on Human Rights, under agenda items 3 and 21.

* The annex is being circulated in the language of submission only.

Annex

OBSERVATIONS BY INDONESIA ON THE REPORT OF THE VISIT OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS TO INDONESIA AND EAST TIMOR FROM 3 TO 7 DECEMBER 1995

I. GENERAL COMMENTS

1. The Government of Indonesia highly values the visit of the High Commissioner for Human Rights as one of the means to promote cooperation between the Government of Indonesia and the United Nations in the field of human rights.

2. During his visit, the High Commissioner met a large number of high-ranking Government officials, including the President of the Republic of Indonesia himself, and many other personalities. This appears to have rendered somewhat difficult the process of preparing and presenting a compact report, as was ideally intended. Some of the discussions are recorded but others have been left out. The most important fact of this visit was that the High Commissioner for Human Rights was accorded full freedom to meet everyone he wished.

3. In general, the draft report is not overly critical. Nevertheless, it goes without saying that, for a report to be credible, it must entail a modicum of objectivity and balance as its foundation. Moreover, in discharging his mandate, the High Commissioner for Human Rights must be guided by principles of objectivity, impartiality and non-selectivity, as stipulated in General Assembly resolution 48/141. In this regard, it is worth mentioning that the High Commissioner himself, at the joint press briefing in Jakarta on 7 December 1995, clearly stressed that: "I will certainly be permanently and absolutely objective in my way of judging situations or presenting facts".

4. As may be recalled, during his visit, the High Commissioner for Human Rights reached an agreement with the Government of Indonesia on some matters that are of great importance. On the other hand, the High Commissioner also made some proposals that so far have remained merely proposals and have yet to be pursued further, as no agreement was reached. The Government of Indonesia is of the view that the existing reports fail to reflect this circumstance fully.

5. The Government of Indonesia deems it necessary and legitimate to make the following observations and comments on the reports in a spirit of cooperation.

II. SPECIFIC COMMENTS

Mandate of the High Commissioner for Human Rights

6. In conformity with General Assembly resolution 48/141, the thrust of the mandate of the High Commissioner for Human Rights is to pursue dialogue and promote cooperation with the Governments of Member States in the promotion and protection of human rights. This vividly demonstrates that this mandate is clearly and distinctly different from those of other United Nations human rights mechanisms and bodies, which are entrusted with purely monitoring

tasks. To inject a new idea whereby part of the dialogue between the High Commissioner for Human Rights and the Member States consists of following up on the recommendations made by United Nations human rights mechanisms is a notion which, if not rejected, will compromise the mandate of the High Commissioner and in turn undermine his credibility.

United Nations human rights presence

7. The Indonesian Foreign Minister, during the sixth round of tripartite meetings under the auspices of the Secretary-General, has apprised the Secretary-General of the developments in the province of East Timor as well as of the visit of the High Commissioner for Human Rights to Indonesia. The aide-mémoire the Indonesian delegation presented to the meeting, among others, stated that:

> "It is particularly important to note that, at the end of his five-day visit, the High Commissioner and the Indonesian Minister for Foreign Affairs arrived at several principles of agreement in the effort to enhance cooperation in the field of human rights between the Government of the Republic of Indonesia and the High Commissioner's Office and other United Nations human rights mechanisms. In this context, both parties agreed, inter alia, to follow up the current 'memorandum of intent'. It was also provisionally agreed to look into the possibility of the High Commissioner assigning a programme officer at the United Nations office in Jakarta in order to follow up on the technical cooperation between the High Commissioner and the Government of Indonesia."

8. The above-mentioned quotation should make it clear that the intent of the Government of Indonesia is to utilize the technical cooperation and advisory services of the United Nations and not to seek some kind of "human rights presence", which is factually related to crisis situations such as for example in Rwanda, Burundi or the former Yugoslavia. The fact that there are cases of human rights abuses in Indonesia is very much understood and well taken. However, the Government of Indonesia does not believe that the situation of human rights there warrants the establishment of a "United Nations human rights presence" or of "field operation".

9. The Government of Indonesia has never made any commitment nor has it agreed to the possibility of establishing "a United Nations human rights presence" in the country in the first place. Therefore, for the High Commissioner to conclude that "a human rights presence" is to be established and that negotiations on its mandate are currently under way is to misconstrue the facts.

The memorandum of understanding on technical cooperation and advisory services in the field of human rights

10. As has been clearly demonstrated, the Government of Indonesia has agreed to upgrade the memorandum of intent between the High Commissioner for Human Rights/Centre for Human Rights and the Government of the Republic of Indonesia on the mutual agreement to cooperate in the development and implementation of coherent and comprehensive national programmes for the promotion and protection of human rights in Indonesia, signed on 26 October 1994 pursuant

to the result of the Second National Workshop on Human Rights, to a more practical memorandum of understanding or agreement in the field of technical cooperation and advisory services. Technical cooperation and advisory services are recognized as clearly distinct from the monitoring activities normally carried out by a "human rights presence" or "field operation".

Cooperation with human rights mechanisms

11. The Government of Indonesia remains fully committed to cooperating with the relevant thematic special rapporteurs and/or working groups of the Commission on Human Rights, and to inviting them, taking into consideration their requests, to visit Indonesia when necessary and if warranted by the discharge of their duties. Imbued with the spirit of cooperation, the Government of Indonesia has always tried to do its utmost to provide due responses to almost all communications concerning cases in Indonesia transmitted under the human rights special procedures.

Linkage between the human rights situation and a political resolution

12. Any attempt to link the human rights situation with, and make it a prerequisite of, the resolution of the political question is considered both tenuous and indefensible and therefore the Government of Indonesia feels compelled to reject it. During an interview with CNN on 6 December 1995, the High Commissioner clearly stated that "I came as High Commissioner for Human Rights to deal exclusively with issues related to human rights. Consequently, I am not going to deal or to make any kind of declarations regarding issues which are not within my mandate."